

effect on or after the date of the enactment of this Act [June 7, 2001].

“(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986, and section 204(h) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1054(h)], as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

“(3) SPECIAL NOTICE RULE.—

“(A) IN GENERAL.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

“(B) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, before April 25, 2001, notice was provided to participants and beneficiaries adversely affected by the plan amendment (and their representatives) which was reasonably expected to notify them of the nature and effective date of the plan amendment.”

Section inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if it had never been enacted, see section 901 of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

§ 4980G. Failure of employer to make comparable health savings account contributions

(a) General rule

In the case of an employer who makes a contribution to the health savings account of any employee during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (b) for such calendar year.

(b) Rules and requirements

Rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

(c) Regulations

The Secretary shall issue regulations to carry out the purposes of this section, including regulations providing special rules for employers who make contributions to Archer MSAs and health savings accounts during the calendar year.

(Added Pub. L. 108-173, title XII, §1201(d)(4)(A), Dec. 8, 2003, 117 Stat. 2478.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as an Effective Date of 2003 Amendment note under section 62 of this title.

CHAPTER 44—QUALIFIED INVESTMENT ENTITIES

Sec.	
4981.	Excise tax on undistributed income of real estate investment trusts.
4982.	Excise tax on undistributed income of regulated investment companies.

AMENDMENTS

1986—Pub. L. 99-514, title VI, §651(c), Oct. 22, 1986, 100 Stat. 2297, substituted: “QUALIFIED INVESTMENT

ENTITIES” for “REAL ESTATE INVESTMENT TRUSTS” as chapter heading, substituted “Excise tax on undistributed income of real estate investment trusts” for “Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year” in item 4981, and added item 4982.

1976—Pub. L. 94-455, title XVI, §1605(a), Oct. 4, 1976, 90 Stat. 1754, added chapter heading and section analysis.

§ 4981. Excise tax on undistributed income of real estate investment trusts

(a) Imposition of tax

There is hereby imposed a tax on every real estate investment trust for each calendar year equal to 4 percent of the excess (if any) of—

- (1) the required distribution for such calendar year, over
- (2) the distributed amount for such calendar year.

(b) Required distribution

For purposes of this section—

(1) In general

The term “required distribution” means, with respect to any calendar year, the sum of—

- (A) 85 percent of the real estate investment trust’s ordinary income for such calendar year, plus
- (B) 95 percent of the real estate investment trust’s capital gain net income for such calendar year.

(2) Increase by prior year shortfall

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the grossed up required distribution for the preceding calendar year, over
- (B) the distributed amount for such preceding calendar year.

(3) Grossed up required distribution

The grossed up required distribution for any calendar year is the required distribution for such year determined—

- (A) with the application of paragraph (2) to such taxable year, and
- (B) by substituting “100 percent” for each percentage set forth in paragraph (1).

(c) Distributed amount

For purposes of this section—

(1) In general

The term “distributed amount” means, with respect to any calendar year, the sum of—

- (A) the deduction for dividends paid (as defined in section 561) during such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D)), and

- (B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A) of section 857 for any taxable year ending in such calendar year.

(2) Increase by prior year overdistribution

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the distributed amount for the preceding calendar year (determined with the ap-